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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,837	03/03/2004	Toshimichi Kishimoto	TMI-5011	2503
24956	7590	10/02/2007	EXAMINER	
MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.			CABUCOS, MARIE G	
1800 DIAGONAL ROAD			ART UNIT	PAPER NUMBER
SUITE 370			2163	
ALEXANDRIA, VA 22314				
MAIL DATE		DELIVERY MODE		
10/02/2007		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.	KISHIMOTO ET AL.
Examiner	Art Unit Marie Antoinette Cabucos 2163

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 3/3/2004 & amendment filed 6/15/2007.  
2a) This action is FINAL.                            2b) This action is non-final.  
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 1-14 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) Claim(s) \_\_\_\_\_ is/are allowed.  
6) Claim(s) 1-14 is/are rejected.  
7) Claim(s) \_\_\_\_\_ is/are objected to.  
8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.  
10) The drawing(s) filed on 03 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) Notice of Informal Patent Application  
6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by **Nolan et al (US Patent no. 6,640,278)**.

Regarding claims 1, 3, 5, 7, 9, 11, 13 and 14, Nolan discloses in figures 5, 18 and 19 a system and method for use in the operation of a storage managing server (151) that is connected to a storage device and a storage managing terminal (col. 5, lines 7-30) said processing method comprising the steps of receiving, by the storage managing server a first request (figure 18, 1409), requesting download of a manager program (col. 23, lines 23-40), issued from said storage managing terminal, said manager program to be used by said storage managing terminal for executing processing on the storage managing server, and a second request for executing processing including conducting communication of constructional information (figure 23, LUN Map), which includes volume information defining characteristics of a plurality of volumes included in said storage device, between said storage device and the storage managing server, said constructional information being used for managing said volumes

included in said storage device (figure 18, reference 1406); and starting, by the storage managing server processing, which includes at least sending a request to said storage device requesting constructional information, with respect to said second request, before the storage managing server transmits a response to said first request to said storage managing terminal (col. 24, lines 16-34 and col. 25, lines 14-25), wherein said storage device includes said volumes each of which stores data sent from host computers via a network (col. 4, lines 63-67; figure 19, host manager; figure 32, reference 2010).

Regarding claims 2, 6, 8 and 10, Nolan discloses in figure 18 the method and system according to claim 1, wherein said first request includes a login request (1409) from said storage managing terminal to the storage managing server.

Regarding claims 4 and 12, Nolan discloses in figure 18 the method and system according to claim 3, wherein said first processing includes the downloading of said manager program for operating the constructional information of said storage device (col. 13, lines 32-55; DDMs).

### ***Response to Arguments***

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

***Pertinent Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Prior art of record to Enoki et al (US Patent no. 5,873,085) discloses a virtual file management system.

***Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marie Antoinette Cabucos whose telephone number is 571-272-8582. The examiner can normally be reached on 8:30-5:00.

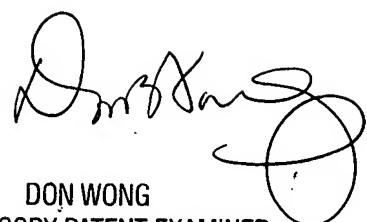
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don K. Wong can be reached on (571) 272-1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Marie Antoinette Cabucos  
Examiner  
Art Unit 2163



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SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100